

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:  
TRANSCARE CORPORATION,  
Debtor.

Chapter 7  
Case No.: 16-10407 (SMB)

-----X

-----X

In re:  
TRANSCARE NEW YORK, INC.,  
Debtor.

Chapter 7  
Case No.: 16-10408 (SMB)

-----X

-----X

In re:  
TRANSCARE ML, INC.,  
Debtor.

Chapter 7  
Case No.: 16-10409 (SMB)

-----X

-----X

In re:  
TC AMBULANCE GROUP, INC.,  
Debtor.

Chapter 7  
Case No.: 16-10410 (SMB)

-----X

-----X

In re:  
TRANSCARE MANAGEMENT SERVICES,  
INC.,  
Debtor.

Chapter 7  
Case No.: 16-10411 (SMB)

-----X

-----X

In re:

Chapter 7

TCBA AMBULANCE, INC.,

Case No.: 16-10412 (SMB)

Debtor.

-----X

x

-----X  
In re:

Chapter 7

TC BILLING AND SERVICES  
CORPORATION,  
Debtor.

Case No.: 16-10413 (SMB)

Chapter 7

-----X  
-----X

In re:

TRANSCARE WESTCHESTER, INC.,

Case No.: 16-10414 (SMB)

Debtor.

-----X  
-----X

In re:

TRANSCARE MARYLAND, INC.,

Chapter 7

Case No.: 16-10415 (SMB)

Debtor.

-----X  
-----X

In re:

TC AMBULANCE NORTH, INC.,

Chapter 7

Case No.: 16-10416 (SMB)

Debtor.

-----X  
-----X

In re:

TRANSCARE HARFORD COUNTY, INC.,

Chapter 7

Case No.: 16-10417 (SMB)

Debtor.

-----X

NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY

PLEASE TAKE NOTICE that, upon the annexed Declaration of David J. Rabbach, dated March 21, 2016, and the exhibits annexed thereto, and the annexed Declaration of Randi Beth Gilbert, dated March 21, 2016, the undersigned will make a motion before the Hon. Stuart M. Bernstein, United States Bankruptcy Court, Courtroom 723, at the United States Bankruptcy Court for the Southern District of New York, at the Courthouse, One Bowling Green, New York,

New York 10004-1408 on April 5, 2016, at 9:30 A.M., or as soon thereafter as counsel may be heard, for an Order, pursuant to 11 U.S.C. §362(d), Bankruptcy Rule 4001 and Local Bankruptcy Rule 4001-1, vacating and modifying the automatic stay to permit movant to evict the Debtor, TRANSCARE NEW YORK, INC., from premises rented by the Debtor from Movant on the grounds that the Debtor has defaulted under the lease between movant and the Debtor, has failed to pay post-petition use and occupancy, has defaulted under a stipulation of settlement in a state court summary nonpayment proceeding, a warrant of eviction has issued, the Debtor has failed to pay water and sewer charges that have accrued during the Debtor's use and occupancy of the premises in question, such that the landlord's reversionary interest in and to the premises is threatened, and the premises are not necessary to an effective reorganization of the debtor because the premises seem to have been abandoned and the debtor has filed a Chapter 7 liquidation proceeding, rather than a Chapter 11 reorganization proceeding and has no intention of reorganizing its business.

PLEASE TAKE FURTHER NOTICE, that answering papers to this motion must be served and filed via CM/ECF at least seven (7) days prior to the return date of this motion pursuant to Local Bankruptcy Rule 9006-4(b).

Dated: Williston Park, New York  
March 21, 2016

Yours, etc.



RANDI BETH GILBERT, ESQ.

A Member of the Firm

(email: rgilbert@hwrpc.com)

HORING WELIKSON & ROSEN P.C.

11 Hillside Avenue

Williston Park, New York 11596

(516) 535-1700

TO: TRANSCARE NEW YORK, INC.

1 MetroTech Center  
Brooklyn, New York 11201  
Chapter 7 Debtor

CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP  
Attention: Lynn P. Harrison III (Email: lharrison@curtis.com)  
101 Park Avenue, Suite 34  
New York, New York 10178  
Attorneys for TRANSCARE NEW YORK, INC.

LAMONICA HERBST & MANISCALCO, LLP  
Attention: Holly R. Holecek (Email: hrh@lhmlawfirm.com)  
3305 Jerusalem Avenue  
Wantagh, New York 11793  
Attorneys for Salvatore LaMonica, Chapter 7 Trustee

SALVATORE LAMONICA  
Chapter 7 Trustee  
c/o LAMONICA HERBST & MANISCALCO, LLP  
3305 Jerusalem Avenue  
Wantagh, New York 11793

UNITED STATES TRUSTEE  
Office of the United States Trustee  
U.S. Federal Office Building  
201 Varick Street, Room 1006  
New York, New York 10014

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 7

TRANSCARE CORPORATION,  
Debtor.

Case No.: 16-10407 (SMB)

-----X

-----X

In re:

Chapter 7

TRANSCARE NEW YORK, INC.,

Case No.: 16-10408 (SMB)

Debtor.

-----X

-----X

In re:

Chapter 7

TRANSCARE ML, INC.,

Case No.: 16-10409 (SMB)

Debtor.

-----X

-----X

In re:

Chapter 7

TC AMBULANCE GROUP, INC.,

Case No.: 16-10410 (SMB)

Debtor.

-----X

-----X

In re:

Chapter 7

TRANSCARE MANAGEMENT SERVICES,  
INC.,

Case No.: 16-10411 (SMB)

Debtor.

-----X

-----X  
In re:

Chapter 7

TCBA AMBULANCE, INC.,

Case No.: 16-10412 (SMB)

Debtor.

-----X  
-----X

x

In re:

Chapter 7

TC BILLING AND SERVICES  
CORPORATION,

Case No.: 16-10413 (SMB)

Debtor.

Chapter 7

-----X  
-----X

In re:

Case No.: 16-10414 (SMB)

TRANSCARE WESTCHESTER, INC.,

Debtor.

-----X  
-----X

In re:

Chapter 7

TRANSCARE MARYLAND, INC.,

Case No.: 16-10415 (SMB)

Debtor.

-----X  
-----X

In re:

Chapter 7

TC AMBULANCE NORTH, INC.,

Case No.: 16-10416 (SMB)

Debtor.

-----X  
-----X

In re:

Chapter 7

TRANSCARE HARFORD COUNTY, INC.,

Case No.: 16-10417 (SMB)

Debtor.

-----X

STATE OF FLORIDA                    }  
COUNTY OF PALM BEACH} ss.:

DAVID J. RABBACH hereby declares the truth of the following under 28 USC §1746,  
under penalty of perjury:

1. I am a person with knowledge of the facts concerning tenancy of Transcare New York Inc. ("the Debtor"), the Debtor herein, and a representative of the landlord, SEZ Foster LLC (the "landlord") for the premises known as 106-15 Foster Avenue, Brooklyn, New York (the "premises").

2. I make this Declaration in support of the landlord's motion to vacate the automatic stay based upon the Debtor's post and pre-petition defaults under its lease and under a prior stipulation of settlement with the landlord.

3. A copy of the Debtor's lease, as amended, is annexed hereto as Exhibit A.

4. The premises have been vacated as far as we can tell but we have not received any notice of surrender or abandonment, no keys have been surrendered and the premises are locked.

5. However, it is clear that the Debtor has no equity in these premises and these premises are not required for an effective reorganization of the debtor since the Debtor is no longer using the Premises, as far as we can tell, and this is a Chapter 7 liquidation case, not a Chapter 11 reorganization.

6. In addition, there are violations issued by the New York City Fire Department for which the landlord needs immediate access to do work to remedy the alleged conditions.

7. I previously emailed the Debtor a copy of the violation notice which required them to be remedied by March 9, 2016.

8. The Debtor failed to provide access, the result of which will be that the Fire Department will issue fines.

9. The Debtor failed to pay the post-petition rent for March 2016 in the sum of \$74,141.44.

10. Under the lease, the Debtor is required to pay the water and sewer charges for the premises rented by the Debtor. See Exhibit A annexed hereto.

11. The Debtor has failed to pay the water and sewer charges for the premises. See Exhibit B annexed hereto.

12. Because the Debtor has failed to pay the water and sewer bills for such a long time, the New York City Department of Finance has already imposed a lien and is threatening to take the next step in the enforcement of that lien against the property and against the landlord's separate property. See Exhibit C annexed hereto.


13. The Debtor is in default under a stipulation of settlement (a copy of which is annexed hereto as Exhibit D) in state landlord tenant court on December 22, 2015 and owes in excess of \$400,000 under that stipulation.

14. The landlord already has a possessory judgment and a warrant of eviction.

15. Under the circumstances, the landlord is entitled to relief from the automatic stay because of these defaults and also because the landlord lacks adequate security for the Debtor's continued ability to perform its obligations under the lease.

WHEREFORE, I respectfully request that this motion be granted in its entirety, that the automatic stay be vacated pursuant to 11 U.S.C. §362 to permit the landlord to pursue eviction in state court, and that this Court grant the landlord such other and further relief as this Court deems just, proper and equitable under the circumstances.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March 21, 2016 at Boca Raton, Florida.



DAVID J. RABBACH